

117TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To appropriately limit the use of riot control agents.

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IN THE SENATE OF THE UNITED STATES

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Mr. KAINE introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To appropriately limit the use of riot control agents.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Preventing the Misuse  
5 of Tear Gas Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Riot control agents are heavily regulated on  
9 the battlefield and have been banned by the inter-  
10 national community under the Convention on the  
11 Prohibition of the Development, Production, Stock-  
12 piling and Use of Chemical Weapons and on their

1 Destruction, done at Geneva September 3, 1992,  
2 and entered into force April 29, 1997 (commonly re-  
3 ferred to as the “Chemical Weapons Convention”).

4 (2) The Centers for Disease Control and Pre-  
5 vention recognize that exposure to riot control  
6 agents can impose both immediate and long term  
7 health effects, including blindness, glaucoma, cata-  
8 racts, asthma, burns, and respiratory failure possibly  
9 resulting in death.

10 (3) Riot control agents cause respiratory dis-  
11 tress and pose particular challenges in urban com-  
12 munities, and among minority populations, where  
13 incidences of respiratory illness are disproportion-  
14 ately high.

15 (4) Riot control agents cause respiratory dis-  
16 tress and pose significant challenges during the  
17 COVID-19 pandemic due to the damage that the  
18 pandemic has inflicted to respiratory systems of mil-  
19 lions of people.

20 (5) If the use of riot control agents is regulated  
21 on the battlefield, their indiscriminate use against ci-  
22 vilian populations should not be allowed.

23 (6) Limiting the use of riot control agents to  
24 stop violent behavior can be a valid strategy to de-

1       escalate violence and avoid greater use of force by  
2       law enforcement.

3               (7) In particular, riot control agents should not  
4       be deployed against persons behaving peacefully.

5 **SEC. 3. DEFINITIONS.**

6       In this Act:

7               (1) **LAW ENFORCEMENT OFFICER.**—The term  
8       “law enforcement officer”—

9               (A) means any officer of the United  
10       States, a State, or a unit of local government,  
11       who is empowered by law to conduct investiga-  
12       tions of, or make arrests because of, offenses  
13       against the United States, the District of Co-  
14       lumbia, a State, or a political subdivision of a  
15       State; and

16              (B) includes a member of the Armed  
17       Forces (including any reserve component) under  
18       orders to act in a policing capacity in the  
19       United States.

20              (2) **RIOT CONTROL AGENT.**—The term “riot  
21       control agent”—

22              (A) means any chemical that—

23                      (i) is not included on any schedule of  
24       chemicals contained in the Annex on  
25       Chemicals of the Convention on the Prohi-

1                   bition of the Development, Production,  
2                   Stockpiling and Use of Chemical Weapons  
3                   and on their Destruction, done at Geneva  
4                   September 3, 1992, and entered into force  
5                   April 29, 1997 (commonly referred to as  
6                   the “Chemical Weapons Convention”); and

7                   (ii) can produce rapidly in humans  
8                   sensory irritation or disabling physical ef-  
9                   fects which disappear within a short time  
10                  following termination of exposure; and

11                  (B) includes the chemical compounds 2-  
12                  chlorobenzalmalononitrile, chloroacetophenone,  
13                  and oleoresin capsicum.

14                  (3) VIOLENT ACTIVITY.—The term “violent ac-  
15                  tivity” means activity causing physical injury to per-  
16                  sons or serious property damage.

17 **SEC. 4. USE OF FORCE STANDARD RELATED TO THE USE**  
18 **OF RIOT CONTROL AGENTS.**

19                  (a) FEDERAL LAW ENFORCEMENT ON USE OF  
20 FORCE POLICY REQUIREMENT.—Beginning with the first  
21 fiscal year that begins after the date of enactment of this  
22 Act, all Federal law enforcement agencies shall have in  
23 effect a clear set of policies related to the use of force  
24 that clearly states that—

1           (1) the use of riot control agents or similar irri-  
2           tants should be avoided wherever possible against  
3           non-violent civilians and only deployed to stop vio-  
4           lent activity; and

5           (2) the use of riot control agents or similar irri-  
6           tants to quell violent activity should be directed in  
7           way that minimizes any impact on those not partici-  
8           pating in the violent activity.

9           (b) STATE AND LOCAL LAW ENFORCEMENT USE OF  
10          FORCE REQUIREMENT.—Beginning with the first fiscal  
11          year that begins after the date of enactment of this Act,  
12          in order to be eligible to receive funds under subpart 1  
13          of part E of title I of the Omnibus Crime Control and  
14          Safe Streets Act of 1968 (34 U.S.C. 10151 et seq.) and  
15          part Q of title I of such Act (34 U.S.C. 10381 et seq.),  
16          a State or unit of local government shall have in effect  
17          a law or policy, and be in substantial compliance with such  
18          law or policy, establishing use of force standards for law  
19          enforcement officers that clearly state that—

20                 (1) the use of riot control agents or similar irri-  
21                 tants should be avoided wherever possible against  
22                 non-violent civilians and only deployed to stop vio-  
23                 lent activity; and

24                 (2) the use of riot control agents or similar irri-  
25                 tants to quell violent activity should be directed in

- 1 way that minimizes any impact on those not partici-
- 2 pating in the violent activity.